IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY SIXTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

W.P. NOs: 10183 of 2004 and 12514/2004

1.WRIT PETITION NO : 10183 of 2004

Between:

Ravuri Bhaskara Rao, S/o. Sri Krishnaiah
Martoor Pet, Village, Madhira Mandal, Khammam Dist.

..... PETITIONER

AND

1 The District Medical & Health Officer, Khammam, Khammam District.
2 A.P. Health & Medical Housing &Infrastructure Development Corporation Hyderabad rep. by its Managing Director
3 The District Collector, Khammam, Khammam District.
4 The Govt of A.P., rep. by its Prl. Secretary, Medical & Health Dept., Secretariat, Hyderabad.
5 Mandala Iyalaiah, Special Contractor, H.No. 6-2-289, Injarla Street, Hanumakonda, Warangal District.

6. G. Vijaya Rao S/o Peddanagulu, aged 32 years, Agriculture, R/o Marturipeta (v), Madhira Mandal, Khammam District.

(R-6 impleaded as per court orders dt. 26-10-2004 in WPMP No.14481/2004)

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ or direction more particularly Writ of Mandamus declaring the action of the Respondent No. 1 to 4 herein in directed the 5th respondent herein orally without passing any orders for stopping of execution of construction of building of primary Health Center from the petitioner's site to the other site at the instance of the Local Leaders of ruling government is illegal and void and opposed to Art. 14 19, 21 & 300-a of the Constitution of India and consequently direct the respondents No. 1 to 4 to discharge the functions in accordance with law to uphold the constitution of India to do justice to the public at large.

For the Petitioner: MR.MUMMANENI.SRINIVASA RAO, Advocate

For the Respondent Nos.1,3 and 4: GP FOR MEDICAL HEALTH & FAMI.WELFARE

For the Respondent No.2 : Mr. Y.Sudhakar, Advocate

For the RespondentNo.6: Sri G.L.Narasimha Rao, Advocate

For the Respondent No.5: None appeared.

2.WRIT PETITION NO : 12514 of 2004

Between:

Ravuri Bhaskara Rao S/o Sri R.Krishnaiah
Martoor Pet Village, Madhira Mandal, Khammam District

..... PETITIONER

AND

1 The District Medical & Health Officer Khamman, Khammam District
2 AP. Health & Medical Housing & Infrastructure Development Corporation, Hyderabad , rep. by its Managing Director,
3 The District Collector, Khammam, Khammam District
4 The Govt. of AP., rep. by its Prl. Secretary, Medical Health Department , Secretariat, Hyderabad
5 Mandada Iyalaiah, Special Contractor,
H.No.6-2-289, Injarla Street, Hanumakonda, Warangal District
6 Vemi Reddy Venkata Reddy S/o Vemireddy Rama Kota Reddy
Martoorpet, Madhira Mandal, Khammam District

7. M.V.S.N. Prasad S/o Venkata Narasaiah, aged 35 years, Occ: Village President, Nagavarappadu Gram Panchayat, Madhiral Mandal, Khammam District.

8. M. Satyanarayana, S/o Chinnaiah, aged 72 lyears, Occ: Village Sarpanch, Martoor Gram Panchayat, Madhira Mandal, Khammam District.

9. Ch. Rama Raju S/o Kanaka Rajku, aged 35 years, Occ: MPTC, Sidhinenigudem (Marlapahad), Madhira Mandal, Khammam District.

10. K.Rathamma W/o Devadhanam, aged 50 years, Occ: Sarpanch, Gram Panchayat, Nidhanapuram Village, Madhira Mandal, Khammam District.

11. G. Srinivas Reddy, S/o Nagi Reddy, aged 35 years, Occ: Vice-President, Martooripeta Gram Panchayat, Madhira Mandal, Khammam District.

12. G.Thomasamma W/o Venkateshwarlu, aged 40 years, Occu: MPTC, Nidhanapuram Village, Madhira Mandal, Khammam District.

13. Katta Venkata Narasaiah, MLA, Madhira Constituency C/o CPI(M) Office, Madhira, Khammam District, r/o Q.No.308, M.S.Block-2, Old MLA Quarters, Hyderguda, Hyderabad.

(RR 7 to 12 impleaded as per court orders dt. 26-10-2004 in WPMP No.17336/2004. R-13

is impleaded l in WPMP No.20434/2004)

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, or direction more particularly one in the nature of Writ of Mandamus to declaring the action of the respondent No. 1 & 3 herein in taking steps to proceed the construction of Primary Health Center of Martoorpet Village, Madhira Mandal, Khammam District in the land of the 6th respondent herein though the construction of Primary Helath Center is in Progress in the land of the petitioner herein as directed by the Govt. of AP., and in view of the Subject mater of the WP. No.10183/2004 is pending before this Hon'ble High Court without filing the Counter in the said WP., the action of the respondent is illegal and void andopposed to Artcles. 14,19, 21 and 300-A of the Constitution of India and consequently direct the respondent herein not to shift the construction of Primary Health Center in Progress in the petitioner's land.

For the Petitioner: MR.MUMMANENI.SRINIVASA RAO, Advocate

For the Respondent Nos.1 3 and 4: GP FOR MEDICAL HEALTH & FAMI.WELFARE

For the Respondent No.2 : Mr. Y. Sudhakar, Advocate

For the Respondents 7 to 12: Sri Vatsavayi Ajay Kumar, Advocate

For the Respondent Nos.5 and 6: None appeared

For the Respondent No.13: None appeared.

The Court made the following :

COMMON ORDER:

Construction of building for Primary Health Center at Martoorpet village is the subject matter

in dispute in both the writ petitions. Hence, they are being heard together and disposed of the same by this common order.

The petitioner in both the writ petitions and his family members donated Ac.1.50 cents of land for construction of building for Primary Health Center at Martoorpet village under a registered gift deed in favour of the first respondent, District Medical and Health Officer, Khammam. After accepting the gift, tenders were invited and work was awarded to the fifth respondent on 19-5-2004. When the work was in progress, at the instance of local leaders, the first respondent stopped the construction. Questioning the same, W.P.No.10183/2004 has been filed. At that stage, one Mr. Samineni Ramesh came forward to donate the land and transferred the same in favour of the fifth respondent in WP No.12514/2004, who in turn registered the same in favour of the first respondent for construction of Primary Health Center building, which was earlier decided to construct the same in the land donated by the petitioner. In view of the same, WP No.12514/2004 came to be filed.

The first respondent in WP No.12514/2004 filed a counter-affidavit stating that on receipt of the notice in WP No.10183/2004 and when he is preparing counter, District Collector issued orders for taking up construction of Primary Health Center building at Martoorpet in the second site ie., S.Nos.534/4, 534/5 as selected by the Team of Officers specially deputed for the said purpose. At that stage, further proceedings were stayed. It is admitted that the site donated by the petitioner to an extent of Ac.1-50 cents was registered in name of the District Medical & Health Officer, Khammam as he is the owner of the hospital buildings in Khammam District and he handed over the same to APHMHIDC authorities who are the constructing agency, which has started construction work on 20-5-2004. At that stage, local MLA by phone requested the Executive Engineer not to proceed with the construction at the place selected, followed by his letter dt. 25-5-2004 stating that the site which was initially selected for construction is not convenient to the public and villagers. Meanwhile, Sarpanches of five nearby villages passed a resolution unanimously to change the construction of building and work was stopped. The Sarpanches and villagers requested to have Primary Health Center, on bus plying road and land purchased by the sixth respondent and gifted to the first respondent is convenient for the said purpose. The Superintending Engineer, APHMHIDC, Karimnagar who is the executing agency has inspected the site and submitted the merits and demerits of both lands. The Primary Health Center was inaugurated on 16-11-2003 and since then it is functioning in a private building. It is also denied about the dumping of the material by the fifth respondent and excavation of 22 column pits. The work executed by the fifth respondent is not more than 5000/-.

Along with the counter-affidavit, the first respondent filed several documents. One among them is the letter dt. 7-6-2004 addressed by the first respondent to the Director of Health, Andhra Pradesh, Hyderabad, wherein first respondent enclosed the representations made by the respective grampanchayats of nearby villages with regard to construction of Primary Health Center building and requested him to permit the change of PHC building construction place at Martoorpet. In turn the Director of Health wrote a letter to the fourth respondent, namely, Principal Secretary to Government , Health and Medical Department, Government of Andhra Pradesh, Hyderabad seeking suitable instructions regarding the site in which the construction of building for Primary Health Center at Marturpet in Madhira Mandal is to be taken up, and the same is pending consideration.

Having regard to the fact that necessary instructions are sought by the Director of Medical and Health to decide the matter by taking into the suitability and convenience of the villagers for establishment of PHC building at the convenient place, through his letter dt. 6-7-2004 from the fourth respondent, the fourth respondent is hereby directed to decide the same after providing sufficient opportunity to the parties concerned as expeditiously as possible within a period of six months from the date of receipt of a copy of the order. Till the Government decides and selects the site, it is needless to say the first respondent cannot proceed with the construction in either of the sites. It is always open for the parties concerned to file necessary representation appraising suitability and convenience of the place, in which construction of building for Primary Health Center at Marturpet is to be taken up.

The writ petition are accordingly disposed of. No costs.

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A.GOPAL REDDY,J

Dt.26-10-2004

Kmr

1 The District Medical & Health Officer, Khammam, Khammam District.
2 The Managing Director. A.P. Health & Medical Housing &Infrastructure Development Corporation, Hyderabad.
3 The District Collector, Khammam, Khammam District.
4 The Principal Secretary, Medical & Health Dept., The Government of Andhra Pradesh, Secretariat, Hyderabad.
5. 2 CCs to the Govt., Pleader for Medical and Health, High Court Buildings, Hyderabad (OUT).

6. Sri Katta Venkata Narasaiah,MLA, Madhira Constituency C/o CPI (M) Office, Madhira, Khammam District. Resident of Q.No.308 M/s Block-2, Old MLA Quarters, Hyderguda, Hyderabad.

6. 2 CD copies.